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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,904	12/21/2001	Jani Mantyjarvi	324-010816-US(PAR)	5117
2512	7590	08/04/2004	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			JONES, SCOTT E	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/029,904	Applicant(s) MANTYJARVI ET AL.	
	Examiner Scott E. Jones	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8-14,19 and 21-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8-14,19 and 21-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on February 26, 2004 in which applicant amends claims 1, 8, 12, 14, 19, 21, 25, cancels claims 2-7, 15-18, and 20, adds new claims 27-52, amends the specification, and responds to the claim rejections. Claims 1, 8-14, 19, and 21-52 are pending.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Finland on 12/22/2000. It is noted, however, that applicant has not filed a certified copy of the 20002841 application as required by 35 U.S.C. 119(b).

Claim Objections

3. Claims 12, 25, 38, and 51 are objected to because of the following informalities:
- In claims 12, 25, 38, and 51, the acronym "OTM" including all other acronyms must be written in full form at least once in the claim so that the scope of the claims can be readily ascertained. The examiner believes the acronym may stand for "Optical Translation Measurement."
- Correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. Claims 13, 26, 39, and 52 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The limitation directed towards, “the motion of the terminal is identified using a camera to take at least two consecutive images.” is not adequately described, structurally or functionally, in the specification or in the Figures. One having ordinary skill in the art would be unable to ascertain how the camera is used to create motion of an object on the terminal display screen.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 8-14, 19, 21-26, and 27-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. In claim 1, lines 7-10, the limitation, “moving at least the virtual display, the display portion or the object on the terminal display using the motion of the terminal or the motion and/or location of an object proportioned to the terminal” is unclear. One having ordinary skill in the art would be unable to ascertain whether the claim limitation is directed towards the virtual display, the display portion, or the object on the terminal display moving by virtue of the terminal being moved or if the display object on the screen is moved in proportion to the movement of the terminal being moved.

Claims 8-13 inherit the deficiency of claim 1.

Furthermore, the informality is repeated in each of the independent claims 14, 27, and 40.

Claims 19 and 21-26 inherit the deficiency of claim 14.

Claims 28-39 inherit the deficiency of claim 27.

Claims 41-52 inherit the deficiency of claim 40.

9. In claim 13, lines 2-3, the limitation, “wherein the motion of the terminal is identified using a camera to take at least two consecutive images.” is indefinite. One having ordinary skill in the art would be unable to ascertain the function of the camera. Identifying the motion the terminal with a camera has no function.

This informality is repeated in claims 26, 39, and 52.

10. The examiner has noted numerous deficiencies with the claims hereinabove. This list noted is not intended to be an exhaustive list of all informalities with the claims. The Office requests Applicant’s assistance to correct all deficiencies with the claims including those noted above.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 8-11, 13-14, 19-24, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Masuyama et al. (U.S. Pub. No. 2002/0072418).

Masuyama et al. discloses a portable game apparatus with an acceleration sensor and information storage medium storing a game program, and more particularly to a portable game

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apparatus and information storage medium storing a game program wherein tilting or movement of the portable game apparatus is detected by an acceleration sensor or proximity switch (z-axis direction contact switch) and utilized as operational information for game control. Masuyama et al. additionally discloses:

Regarding Claims 1 and 14:

- providing the terminal display with at least one virtual display (12), a display portion or an object (Figure 1); and
- moving at least the virtual display, the display portion or the object on the terminal display using the motion of the terminal or the motion and/or location of an object proportioned to the terminal (Paragraphs 2, 8, 11, 13, 14, 23-26, 34-35, and Claims 1-3).
- wherein said method comprises a shooting game, and a target and an aiming point are shown on the terminal display, and the motion of the aiming point on the terminal display is proportioned to the motion of the terminal or the motion of an object in relation to the terminal (Paragraphs 2, 8, 11, 13, 14, 23-26, 34-35, and Claims 1-3).

Regarding Claim 8:

- a user is informed about a release in the shooting game with a sound signal, a light signal or a vibrator (Paragraphs 99-101).

Regarding Claims 9 and 22:

- in order to indicate the motion of the terminal, the terminal is informed about one or more location points to which the terminal proportions its motion (Paragraphs 2, 8, 11, 13, 14, 23-26, 34-35, and Claims 1-3).

Regarding Claims 10 and 23:

- the motion of the terminal is identified by means of acceleration sensors (Paragraphs 2, 8, 11, 13, 14, 23-26, 34-35, and Claims 1-3).

Regarding Claims 11 and 24:

- the motion of the terminal is identified by proximity (z-axis direction contact switch) sensors (Paragraphs 90 and 177-178).

Regarding Claims 13 and 26:

- the motion of the terminal is identified using a camera to take at least two consecutive images (Paragraphs 113, 128, and 152).

Regarding Claim 19:

- a release in the shooting game occurs by touching a key or a touch control switch or by means of a voice (Paragraphs 99-101).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 12, 25, and 27-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masuyama et al. (U.S. Pub. No. 2002/0072418).

Masuyama et al. discloses that as discussed above regarding claims 1, 8-11, 13-14, 19-24, and 26. However, Masuyama et al. seems to lack explicitly stating:

Regarding Claims 12, 25, 38, and 51:

- the motion of the terminal is identified by means of sensors manufactured by OTM Technologies Ltd.

Regarding Claims 27 and 40:

- the game is an archery game.

Regarding Claims 28 and 41:

- the stretch of a bow is modeled using the distance between two fingers.

Regarding Claims 29, 30, 42, and 43:

- a stretching force of the bow in the archery game is depicted on the terminal display using colors or graphic symbols or sounds.

Regarding Claims 31 and 44:

- a release in the archery game occurs by touching a touch control switch or a key or by means of a voice.

Regarding Claims 32, 33, 45, and 46:

- a release in the archery game occurs by identifying two objects (fingers) , which are drawn away from one another.

Although Masuyama et al. does not explicitly disclose an archery game, it would have been obvious at the time of Applicant's invention to incorporate any kind of shooting and target means in the gaming device, such as, an archery game. Although the function would be the same

whether the game is an archery game or a tortoise shooting game, one would be motivated to make an archery game in order to appeal to those player's interested in bow hunting for example.

Response to Arguments

15. Applicant's arguments with respect to claims 1, 8-14, 19, and 21-26 have been considered but are moot in view of the amendment to the claims and the new ground(s) of rejection.

16. Applicant's arguments, see page 12, filed February 26, 2004, with respect to the objection to the brief description of the drawings have been fully considered and are persuasive. The objection of the specification has been withdrawn.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Masuyama et al. '572, Lands '554, and LaBiche et al. disclose portable game apparatus and methods for generating outcomes on a display screen based on accelerations detected by rotating the game machine with a human hand.

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JOHN M. NOTALING, II
PRIMARY EXAMINER

